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| 10/686,476      | 10/15/2003  | James Timothy Stolzer | JK01483A            | 6646             |

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| EXAMINER |
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PRONE, JASON D

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| ART UNIT | PAPER NUMBER |
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3724

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/686,476

Applicant(s)

STOLZER, JAMES TIMOTHY

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-26 is/are pending in the application.  
4a) Of the above claim(s) 7,9,15,17,24 and 26 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3,5,6,8,10-14,16 and 18-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The indicated allowability of claims 8, 16, and 25 is withdrawn in view of the newly discovered reference(s) to Shibata et al. (6,073,529). Rejections based on the newly cited reference(s) follow.

#### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: Applicant should consider replacing the paragraph "an adjustable retention member movable relative to the support surface along a direction substantially parallel to the support surface for providing work piece positioning, the retention member having a work piece-contacting surface" with " an adjustable retention member having a work piece-contacting surface". Because the newly added limitation at the end of the claim discloses the parallel movement. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-14, 16, 18, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 11 recites the limitation "the work piece-contacting surface" on line 13. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Scott et al. (4,875,399).

Claim 1:

Scott et al. discloses the same invention including a support surface for supporting a work piece (52), an adjustable retention member (14) movable relative to the support surface along a direction parallel to the support surface (12) having a work piece-contacting surface (14), a securing mechanism connected to the retention member for securing the retention member in a desire orientation (16), the retention member is capable of pivotally obtaining an extended orientation disposed above the support surface (Fig. 2) and a retracted orientation disposed below the support surface (Fig. 3), the work piece-contacting surface being completely below the support surface when the retention member is in the retracted position (Fig. 3), and the retention member is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position (12).

Claims 20-23:

In regards to claim 20, Scott et al. discloses the same invention including a support surface for supporting a work piece (52), means for adjustable positioning (72),

means for retaining a work piece in a desire position (14) the retention means having a work piece-contacting surface (14), means for securing the retaining means for securing the retaining means in a desire orientation (16), the retention means is capable of obtaining an extended orientation disposed above the support surface (Fig. 2) and a retracted orientation disposed below the support surface (Fig. 3), the work piece-contacting surface being completely below the support surface when the retention member is in the retracted position (Fig. 3), and the retention member is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position (12).

In regards to claims 21-23, Scott et al. discloses the adjustable positioning means is a threaded rod (72), the retaining means is adjustably connected to the adjustable positioning means (Fig. 3), and the retaining means is a cleat (14).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3, 8, 10-12, 16, 18-20, 22, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata et al. Figs. 7-9 (hereafter to be called Group 1) in view of Shibata et al. Figs. 16-18 (hereafter to be called Group 2).

**Claim 1:**

Group 1 discloses the invention including a support surface for supporting a work piece (17), an adjustable retention member (30) having a work piece-contacting surface (32), the retention member is capable of pivotally obtaining an extended orientation disposed above the support surface (Fig. 9) and a retracted orientation disposed below the support surface (Fig. 8), and the work piece-contacting surface being completely below the support surface when the retention member is in the retracted position (Fig. 8).

However, Group 1 fails to disclose the retention member is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position and a securing mechanism connected to the retention member to secure the retention member in a desire orientation.

Group 2 teaches that it is old and well known in the art of retention members to incorporate a retention member that is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position (21) and a securing mechanism connected to the retention member to secure the retention member in a desire orientation (56). Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Group 1 with a parallel retention member with a securing mechanism, as taught by Group 2, to allow for the user to have the retention member in the extended position and allow the user to move the retention member so as not to interfere with the saw when it is beveled and to secure the retention member in this "out of the way"

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position. It would have also been obvious to one of ordinary skill in the art to provide 34 with an added area to hold the securing device 56.

Claims 3, 8, and 10:

In regards to claim 3, Group 1 discloses the invention including a deck for supporting a work piece (17), an adjustable positioning device disposed within the deck (33), a retention member connected to the adjustable positioning device for providing work piece positioning (30) and having a work piece contacting surface (32), the retention member is capable of pivotally obtaining an extended orientation disposed above the support surface (Fig. 9) and a retracted orientation disposed below the support surface (Fig. 8), and the work piece-contacting surface being completely below the support surface when the retention member is in the retracted position (Fig. 8).

In regards to claim 10, Group 1 discloses the apparatus is integrated with a power tool (Title).

However, Group 1 fails to disclose the retention member is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position, a securing mechanism connected to the retention member to secure the retention member in a desire orientation, and the securing mechanism is a pair of generally opposing deformable tabs.

Group 2 teaches that it is old and well known in the art of retention members to incorporate a retention member that is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position (21), a securing mechanism connected to the retention member

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to secure the retention member in a desired orientation (56), and the securing mechanism is a pair of generally opposing deformable tabs (56 and Column 14 lines 13-16). Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Group 1 with a parallel retention member with a securing mechanism, as taught by Group 2, to allow for the user to have the retention member in the extended position and allow the user to move the retention member so as not to interfere with the saw when it is beveled and to secure the retention member in this "out of the way" position.

Claims 11, 12, 16, 18, and 19:

In regards to claim 11, Group 1 discloses the invention including a housing (Fig. 7) including a support surface (17) with a recess (34), an adjustable positioning device disposed generally in the housing recess (33, Fig. 9 clearly shows that 33 generally in 34), a retention member adjustably connected to the positioning device (30), the retention device being configured to pivotally obtain an extended orientation (Fig. 9) and a retracted orientation (Fig. 8), the retention member is capable of pivotally extending exterior to the housing (Fig. 9) and retracting substantially below the support surface (Fig. 8), and the work piece-contacting surface being completely below the support surface when the retention member is in the retracted position (32).

In regards to claims 12, 18, and 19, Group 1 discloses an attachment device connected to the housing for attaching the apparatus to the deck (36), the housing includes a work deck (17), and is integrated with a power tool (Title)



However, Group 1 fails to disclose the retention member is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position, a securing mechanism connected to the retention member to secure the retention member in a desire orientation, and the securing mechanism is a pair of generally opposing deformable tabs.

Group 2 teaches that it is old and well known in the art of retention members to incorporate a retention member that is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position (21), a securing mechanism connected to the retention member to secure the retention member in a desire orientation (56), and the securing mechanism is a pair of generally opposing deformable tabs (56 and Column 14 lines 13-16). Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Group 1 with a parallel retention member with a securing mechanism, as taught by Group 2, to allow for the user to have the retention member in the extended position and allow the user to move the retention member so as not to interfere with the saw when it is beveled and to secure the retention member in this "out of the way" position.

Claims 20, 22, 23, and 25:

In regards to claim 20, Group 1 discloses the invention including a support surface for supporting a work piece (17), means for adjustable positioning (33), means for retaining a work piece in a desire position (30) the retention means having a work piece-contacting surface (32), the retention member is capable of obtaining an extended

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orientation disposed above the support surface (Fig. 9) and a retracted orientation disposed below the support surface (Fig. 8), and the work piece-contacting surface being completely below the support surface when the retention member is in the retracted position (Fig. 8).

In regards to claims 22 and 23, Group 1 discloses the retaining means is a cleat and adjustable (30).

However, Group 1 fails to disclose the retention member is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position, a securing mechanism connected to the retention member to secure the retention member in a desire orientation, and the securing mechanism is a pair of generally opposing deformable tabs.

Group 2 teaches that it is old and well known in the art of retention members to incorporate a retention member that is movable relative to the support surface along a direction substantially parallel to the support surface when the retention member is in the extended position (21), a securing mechanism connected to the retention member to secure the retention member in a desire orientation (56), and the securing mechanism is a pair of generally opposing deformable tabs (56 and Column 14 lines 13-16). Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Group 1 with a parallel retention member with a securing mechanism, as taught by Group 2, to allow for the user to have the retention member in the extended position and allow the user to move the retention member so

as not to interfere with the saw when it is beveled and to secure the retention member in this "out of the way" position.

10. Claims 5, 6, 13, 14, and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Group 1 in view of Group 2 as applied to claims 3, 11, and 20 above, and further in view of Windstrup (4,423,860). Group 1 in view of Group 2 disclose the invention including, with regards to claims 3, 11, and 20, a securing mechanism/means connected to the retention member and being constructed for securing the retention member in a desired orientation (36 secures 30 to the apparatus and allows it to pivot to a desired orientation).

However, with regards to claims 5, 6, 13, 14, and 21, Group 1 in view of Group 2 fail to disclose the adjustable positioning device is a threaded rod and the retention member includes an aperture with segmented thread for pivotally engaging the threaded rod.

Windstrup teaches that it is old and well known in the art of pivoting retention devices to incorporate the adjustable positioning device as a threaded rod (50) and the retention member with an aperture with segmented threads for pivotally engaging the threaded rod (44 and 46). Therefore it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Group 1 in view of Group 2 with a threaded rod, as taught by Windstrup, to provide for an alternate method of moving the retention member relative to the deck and also to provide for a more precise movement method.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1, 3, 5, 6, 8, 10-14, 16, 18-23, and 25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Solemslie and Guiu et al.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:00-4:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 05, 2006

  
Patent Examiner  
Jason Prone  
Art Unit 3724  
T.C. 3700